

Statement for the Record
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Michigan Senate
Committee on Elections and Government Reform
Re: SB 306 "Compact for a Balanced Budget"
June 30, 2015

The Center for Military Readiness is an independent, non-partisan, public policy organization that specializes in military/social issues. This statement, in opposition to the referenced legislation initiating a "Compact of the States" to pass a "Balanced Budget Amendment," represents my views as a concerned individual and a resident of Livonia, Michigan.

This statement addresses the political dynamics surrounding this issue, which has been largely fueled by *The Liberty Amendments*, a book written by my friend Mark Levin. I have read *The Liberty Amendments* and most of Mr. Levin's previous books about the U.S. Constitution and worsening violations of its principles. Mr. Levin is very effective and impressive in his discussions of constitutional history, and is one of the best in highlighting obvious problems today.

However, Mr. Levin's expectations for a constitutional convention of the states, and the legislation to initiate what I will refer to as the "Article V Compact/Convention," are simply not realistic in the real world. Neither the book nor the legislation says much about current political realities, media power, well-funded perception managers, legislative processes, legal challenges, or the dynamics of conventions. These factors should not be disregarded in voting for an application for any plan to amend the U.S. Constitution under provisions of Article V of the U.S. Constitution.

The language of SB 306, which purports to define a "Balanced Budget Amendment," includes provisions that could "balance the budget" by raising taxes or establishing new ones, including a "new end user sales tax." It is naïve to believe that these loopholes and several others would not be exploited to overrule the good intentions of Michigan and other states.

Various "Articles" written to establish rules for conducting and controlling the event in question are open to unexpected interpretations and abuse by well-organized and well-funded special interests who seek government power and funding. Given my personal experience with national conventions going back decades, it is easy to see why these suggested rules would be ineffective and easily circumvented in practice.

Once started, Article V Convention events nationwide could become a Fantasia-like process in which conservatives would be more like the sorcerer's apprentice than equals of America's Founding Fathers. Even in legislatures where conservatives dominate, aggressive liberals with agendas of their own would be part of the Article V process and

probably the only ones to gain. The problem here is not the U.S. Constitution – It is the failure to insist that constitutional principles be followed.

A return to sound constitutional principles will not be easy, especially in view of recent opinions that have upheld Obamacare and redefined marriage. Calling for an Article V Compact/Convention would only worsen the situation by devaluing our Constitution.

President Obama is abusing his power in many ways. Soaring federal debt has gotten worse, imposing enormous burdens and limitations on the freedom and prosperity of future generations. Severe damage has been done to our economy, our health and education systems, the IRS, foreign policy, immigration, and our military.

In the past week we have seen the U.S. Supreme Court issue sweeping rulings that directly threaten the First Amendment and religious liberty. Every presidential candidate and every member of Congress and the Senate should be held accountable or assessed as potential candidates based on what they will do to repair the damage.

Executive orders can be reversed by the next president, and Obamacare repealed and replaced by the next Congress, if there is will and the votes to do so. Making that happen should be our goal, and there is a lot of work to be done between now and 2016.

Diverting attention, time, and resources toward calls for an Article V Compact/Convention would not help to solve our most pressing problems, especially since the campaign for this option is largely being led by well-meaning people with little or no experience with the complicated realities of political conventions.

Show me a movement that could not defeat Obamacare, and I will show you a movement that could not begin to control the outcome of an Article V Compact/Convention.

In Chapter 9 of his book, Mark Levin includes proposals and statements that are inconsistent with his own declaration: *"No level of government is perfect. This would seem obvious. Then why concentrate so much authority in the hands of so few imperfect individuals?"*

That's a good question. Why should we bet our Constitution on an Article V Compact/Con-Con, attended by a few good people but also powerful factions representing the same irresponsible forces and leaders who are misusing their power today?

Mr. Levin is a scholar, but he and many of his like-minded advocates have little or no experience with the dynamics of conventions. It would be unwise to rely on the good faith of state legislatures that are far more liberal than our own.

Even if conservative small-government citizens comply with state-established rules, there is no guarantee that big-government forces would play by the same rules. Nor would it mean that an Article V event could be "limited" by promises or even legislation passed by Michigan or any other state.

Once started, the Article V Compact/Convention initiative has no back-up plan if well-meaning delegates comply with the rules but other factions do not. Mr. Levin is very influential, but not powerful enough to make things play out as you might expect. This is especially so since he and many BBA supporters have no personal experience or understanding of how politically perilous conventions can be.

Nor is there an effective backup plan to resolve legal disputes and constitutional crises that the Article V effort would create when political steamrollers crush dissent and log-rollers strike bargains that open the door for objectives beyond the designated subjects. The designated U.S. District Court for the Northern District of Texas is unlikely to intervene and even if it did, it would be too late to undo political decisions that will have been made. I know this from personal experience.

I have participated in or attended every Republican National Convention since 1980, save one, and was a voting delegate in 1984. Conventions can be productive, helpful, and motivating. I was there when the pro-life plank was written in Detroit in 1980 and language of interest to my organization has been in every National Platform since 2000.

Attending a convention is not the same as being involved in its decisions at state or national levels. Sometimes a state or national convention is difficult and disappointing, especially when laws and rules are broken in pursuit of political objectives.

For example, in 1988 the Michigan State Republican Party was seriously divided, and there was a legal dispute over the election of delegates to the National Convention in New Orleans. A lower court ruling approved of irregular procedures, but a higher court overruled months later, after the national convention was over. I mention this because the same dynamics would likely occur in proceedings leading up to and during an Article V Compact/Constitutional Convention. Once set in motion, there will be no going back.

The process evolving in several states, including the "Compact of the States" proposal, suggest many ways that a determined minority could control the outcome in unexpected ways.

The outcome of contested conventions, particularly at the local and state levels, depends on who shows up. No one should forget that the IRS scandal and pending restrictive regulations are designed to keep good people from "showing up" in the political arena.

Even if some states select small-government conservatives to attend an Article V Compact/Convention, high-handed gavels can and probably will be used to ram decisions down. This can happen even at uncontested conventions.

At the 2012 Republican National Convention in Tampa, for example, a controversial rule change was rammed through under questionable circumstances, over the vocal objections of many experienced delegates. Now imagine a national convention of the states in which delegates come from both major and minority parties.

This generation has the responsibility to repair the damage done to our economy by escalating taxes, regulations, and runaway spending that Congress has failed to limit.

Calling an Article V Compact/Convention would not help the situation; in fact, it would divert attention and resources from the difficult task of undoing the damage done.

The BBA and Article V proposals to enact it at all costs do not inspire confidence, since many state legislatures have surrendered state freedoms in exchange for highly-regulated federal funds. If the Michigan legislature is concerned about federal spending, perhaps members should set an example by voting to return excessive federal funds.

It is not appropriate to hold the U.S. Constitution hostage in order to pass a Balanced Budget Amendment, or to achieve any other well-meaning goal. The Founding Fathers wrote Article V, but I doubt that they intended it to be a cudgel brandished as a threat.

Getting sidetracked with Article V resolutions and concomitant political divisions at the local and state levels would divert precious time and limited resources from the goal of getting federal government taxes and spending under control.

The situation seems impossibly difficult, but instead of betting the Constitution on unpredictable outcomes, responsible citizens need to work even harder to reclaim legitimate power. We need to unite in focusing on the issues and electing national leaders who will use their power wisely in order to repair years of damage that are not over yet.

Thank you for considering this statement as you prepare to vote on SB 306 or any other legislation that invokes Article V to revise the U.S. Constitution.

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